

Docket No.: IA 1506.01A US
USSN: 09/295,856

PATENT
Art Unit: 2125

REMARKS

Claims 47, 50-53, 56-59, 62-65, 68-71, and 74-78 are pending in the present application.

This Amendment is in response to the Office Action mailed May 21, 2004. In the Office Action, the Examiner rejected claims 50, 63, 68, 69, 71, and 78 under 35 U.S.C. § 112, second paragraph, and claims 47, 50-53, 56-59, 62-65, 68-71, 74 and 75 under 35 U.S.C. § 102(e) and claims 76-78 under 35 U.S.C. § 103.

Applicant has amended claims 47, 50, 53, 59, 63, 65, 68, 69, 71, and 78. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 112

The Examiner rejected claims 50, 63, 68, 69, 71, and 78 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicant has amended claims 50, 63, 68, 69, 71, and 78 accordingly. Therefore, Applicant respectfully requests the rejection be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 47, 50-53, 56-59, 62-65, 68-71, 74, and 75 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,470,085 issued to Inventor Uranaka et al. ("Uranaka"). Applicant respectfully traverses the rejections for the following reasons.

Uranaka discloses a system for permitting only an authentic user to play a desired application contained in a distributed application package in one of predetermined operation. The application package includes a distribution descriptor which contains mode codes assigned to the volume and the application of the volume (Abstract). The distribution descriptor is stored in the Burst Cutting Area (Fig. 2). Charged information provided by an information provider may be

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distributed off-line or on-line (Col. 4, line 46-48). Uranaka, however, does not disclose determining one of a replicator, distributor, and retailer for the identifier incorporated on the BCA;

Uranaka does not disclose, suggest, or render obvious determining one of a replicator, distributor, and retailer for the identifier incorporated on the BCA.

To support a 102 rejection, the Examiner must show that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bro. v. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987), (MPEP §2131). In addition, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989), (MPEP §2131). Here, the Examiner has not pointed out the specific language in Uranaka that teaches determining one of a replicator, distributor, and retailer for the identifier incorporated on the BCA.

Uranaka, taken alone or in any combination, does not disclose, suggest, or render obvious determining one of a replicator, distributor, and retailer for the identifier incorporated on the BCA.

In view of the amendments made to independent claims 47, 53, 59, 65, and 71, the rejection is now moot. Therefore, Applicant respectfully requests that rejection be withdrawn.

III. REJECTIONS UNDER 35 U.S.C. § 103

The Examiner rejected claims 76-78 under U.S.C. § 103(a) as being unpatentable over Uranaka, and further in view of U.S. Patent No. 5,822,291 issued to Brindze et al ("Brindze"). Applicant respectfully traverses the rejections for the following reasons.

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As stated by the Examiner, Uranaka fails to teach the claimed invention in claims 76-78. The Examiner, however, stated that Brindze teaches (claim 76) utilizing the identifier information to direct one of an e-commerce transaction and a "buy me" button to a retailer (Col. 8, line 39 – Col. 9, line 8). The Examiner considers "buy me" as anticipated by the "enhanced multimedia format" and purchasing and the logic redirects a consumer to a storefront of a retailer (Col. 9, lines 1-5). Applicant disagrees because there is nowhere in Brindze that discloses a "buy me" button. However, in view of the amendments made to the independent claims, the rejection under 35 U.S.C. § 103 is moot.

Uranaka and Brindze, taken alone or in any combination, do not disclose, suggest, or render obvious determining one of a replicator, distributor, and retailer for the identifier incorporated on the BCA.

Therefore, Applicant believes that independent claims 47, 53, 59, 65, 71, and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. § 102(b) and § 103(a) be withdrawn.

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CONCLUSION


In view of the amendments and remarks made above, it is respectfully submitted that the pending claims are in condition for allowance, and such action is respectfully solicited. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 04-1175.

Respectfully submitted,

DISCOVISION ASSOCIATES

Dated: July 20, 2004



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